

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 29TH NOVEMBER 2007 / 8TH AGRAHAYANA 1929

WP(C).No. 24767 of 2004(W)

PETITIONER:

POOKKUTH ABDULLA,
S/O.MOIDUTTY, PATTIKKAD,
MALAPPURAM DISTRICT.

BY ADV. SRIBABU S. NAIR

RESPONDENTS:

1. THE DISTRICT COLLECTOR,
MALAPPURAM.
2. THE REVENUE DIVISIONAL OFFICER,
PERINTHALMANNA, MALAPPURAM DISTRICT.
3. THE TAHSILDAR,
PERINTHALMANNA, MALAPPURAM DISTRICT.

BY G.P. SRI. K.P. PRADEEP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 29/11/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE PLAN OF THE BUILDING.

EXT.P2 TRUE COPY OF THE NOTICE ISSUED BY THE THIRD RESPONDENT DATED 20.5.2002
AS E1.2397/02

EXT.P3 TRUE COPY OF THE ORDER OF THE SECOND RESPONDENT DATED 28.1.2004 AS B.
184/2004

EXT.P4 TRUE COPY OF THE ORDER OF THE FIRST RESPONDENT DATED 14.5.2004

FIRST RESPONDENT'S EXHIBITS:

ANNEXURE R1 TRUE COPY OF THE ASSESSMENT ORDER DATED 19.12.2001

TRUE COPY

P.S. TO JUDGE.

C.N. RAMACHANDRAN NAIR, J.

W.P.C. NO. 24767 OF 2004

Dated this the 29th day of November, 2007

JUDGMENT

Petitioner's grievance is that plinth area measured in his absence by the revenue authorities is in excess of the actual plinth area, which led to demand of luxury tax. Even though Government Pleader submitted that petitioner has paid luxury tax for two years, I feel, if the petitioner insists on challenging the demand for future years, petitioner can apply for measurement of plinth area by Asst. Exe. Engineer, PWD, but on condition that if the claim of the petitioner that the plinth area of the building is below the limit that attracts luxury tax, is incorrect then petitioner will pay cost of Rs. 5000/- in addition to arrears of luxury tax payable with interest. W.P. is accordingly disposed of directing the petitioner to measure the building with the help of some person familiar in the matter and satisfy the correctness of the plinth area assessed by the Tahsildar. If the petitioner still feels that plinth area of the building is below the limit that attracts luxury tax under Section 5A of the Act then petitioner will make an application

before the third respondent for measurement of the building by Asst. Exe. Engineer, PWD, and if any such application is made third respondent will get the building measured by Asst. Exe. Engineer, PWD, and such Engineer will measure the plinth area of the building and file a report after notice to the Tahsildar and to the petitioner. However, if plinth area measured by the Asst. Exe. Engineer, PWD, is above the limit that attracts luxury tax, there will be direction to third respondent to recover Rs. 5,000/- towards cost from the petitioner along with arrears of luxury tax and interest thereon.

(C.N. RAMACHANDRAN NAIR)
Judge

